

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAY PAUL DERATANY, individually, and as)	
agent of JAY PAUL DERATANY & ASSOC.,)	
LTD., a Illinois Professional Corporation,)	
)	
Plaintiff,)	No. 08 CV 3372
)	
vs.)	
)	
DELL FINANCIAL SERVICES, a Texas)	Judge Milton I. Shadur
Corporation, and LTD. FINANCIAL SERVICES,)	Magistrate Judge Jeffrey Cole
L.P., a Texas Corporation, individually and as)	
agent of DELL,)	
)	
Defendant.)	

MOTION TO PARTIALLY VACATE
THE JULY 21, 2008, COURT ORDER

Plaintiff, Jay Paul Deratany, individually, and as agent of Jay Paul Deratany & Associates, Ltd., an Illinois Professional Corporation, hereby respectfully requests this Court to enter an order vacating the July 21, 2008, court order, in part, and in support thereof, Plaintiff states as follows:

1. On July 21, 2008, the court entered an order demanding the plaintiff to appear, and to respond to the settlement offers, and granted the defendant the opportunity to file *an application for fees and cost incurred* with the hearing. (see order attached as Exhibit "A")

2. On June 13, 2008, Defendant, Dell Financial Services, filed a motion to Extend Time to Answer or Otherwise Plead. In a telephone conversation, on the same date defense counsel asked for more time to answer the complaint, and plaintiff stated "take all the time you need" believing he was being generous to his opponent and acting in the best interest of judicial economy. The parties, were in agreement that plaintiff would not need to appear.

3. On June 13, 2008, the court scheduled the case for a June 27, 2008, status.

4. On June 17, 2008, the court granted Defendant, Dell Financial Services motion allowing them to answer the complaint by July 16, 2008.

5. On June 27, 2008, plaintiff appeared before the court but the court advised plaintiff that the date had been reset to July 18, 2008. (Plaintiffs counsel had not seen the change of date; On July 15, 2008, on it's own the court made a docket entry re-scheduling the case to July 21,2008, and canceling the July 18, 2008 date).

6. On July 21, 2008, the plaintiff did not appear due to a conflict but contacted his opposing counsel. The parties agreed that the case would be scheduled for a settlement conference in August 2008. The defendant was in agreement to represent this information to the court in plaintiff's absence.

7. The plaintiff has clearly cooperated in all discovery matters and scheduling and there is no reason or cause to invite sanctions. Plaintiff also has responded to each and every settlement offer made by defendant, and has been fully available to discuss settlement. At no time did plaintiff ever "fail to appear" at a time when his appearance was required, nor did he ignore court orders, and to the contrary acted to give defendant sufficient time to file their pleadings and was willing to schedule a settlement conference.

8. The purpose of this motion is not to delay the proceedings before this court.

WHEREFORE, plaintiff respectfully request the Court to partially vacate the July 21, 2008, court order inviting defendant to file its attorneys fees as sanction against plaintiff.

Respectfully submitted,

By: /s/ Jay Paul Deratany
Jay Paul Deratany

JAY PAUL DERATANY & ASSOCIATES, LTD.
Attorneys for Plaintiff
77 West Washington Street
Suite 1300
Chicago, IL 60602
(312) 857-7285
Attorney No. 6197097